

### **REMARKS**

Claims 11-13, 15-22, 24, 33, 34, 37 and 38 now are pending in the application, of which claim 11 is in independent form. Elected claims 1, 2, 11, 14, 17, 23-27, 29-32, 34-35, and 37-38 were considered in the Office Action.

Claims 11, 34, 37 and 38 are currently amended. Claims 1-10, 14, 23, 25-27, 29-32 and 35 are cancelled without prejudice.

#### **Summary of Examiner Interview**

Applicants express their gratitude for courtesies extended to their representative, James C. Larsen, in a telephonic interview held April 20, 2009. Examiner Robert Rainey, in consultation with his supervisor, agreed in the interview to withdraw the rejection under § 112, first paragraph, of claims 34, 37, and 38. Those claims recite, individually, subject matter that was previously recited as alternatives in a single claim. The examiner noted that separation of items from a Markush group into separate claims is not grounds for rejection under § 112, first paragraph

#### **Allowable Subject Matter**

Applicants thank the examiner for the indication that subject matter in claims 14, 34, 37, and 38 is judged to be allowable if the claims are rewritten to include the subject matter of the rejected base claim. In the interest of expediting prosecution, the subject matter of claim 14 has been added to its base claim (11) and claims 34, 37, and 38 have been amended accordingly to depend from claim 11. Claims 11, 34, 37, and 38 are thus believed to be in condition for allowance.

#### **Claim Rejections under § 112 Withdrawn**

Claims 34, 37, and 38 were rejected under § 112, first paragraph. As discussed above, this rejection was withdrawn per Examiner's Interview Summary dated April 29, 2009.

### **Claim Rejections under § 102(b) and § 103(a)**

The Office Action rejected claims 1, 11, 24, 25, 29, 30 and 32 under 35 U.S.C. § 102(b) as allegedly being anticipated by Japanese Unexamined Patent Publication No. 2003-143556 issued to Nitta et al. (hereinafter "Nitta"). The Office Action rejected claims 23, 26-27, 31 and 35 under 35 U.S.C. § 103(a) as unpatentable over Japanese Unexamined Patent Publication No. 2003-143556 issued to Nitta et al. (hereinafter "Nitta"). Claims 2 and 17 also rejected under 35 U.S.C § 103(a) as being unpatentable over Nitta in view of the Published PCT Application No. WO-03/041,043 of Sugino et al. (hereinafter "Sugino").

The cancellation of claims 1-10, 23, 25-27, 29-32 and 35 renders as moot the rejections thereof. Claim 11 is amended to include the allowable subject matter of claim 14 and is therefore believed to be in condition for allowance. Claims 17 and 24 depend from amended claim 11 and are therefore believed to be in condition for allowance for at least the same reasons. Withdrawal of the § 102(b) rejection and reconsideration of claims 11, 17, and 24 are respectfully requested.

### **Rejoinder of Non-elected Claims**

Dependent claims 12, 13, 15, 16, 18-22, and 33 were previously withdrawn as belonging to a non-elected species. These claims ultimately depend from claim 11, now believed to be in condition for allowance. Accordingly, Applicants respectfully request that dependent claims 12, 13, 15, 16, 18-22, and 33 be rejoined based on their dependency on an allowable generic claim.

### **Conclusion**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact James C. Larsen Reg. No. 58,565 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted

By

Michael R. Cammarata

Registration No.: 39,491

James C. Larsen

Registration No.: 58,565

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorneys for Applicant